

REMARKS

The abstract is amended to delete “in” before “opposite” as instructed by the Examiner and it is believed that the objection should be removed.

Claims 1-4 are rejected under 35 U.S.C. 102 (b) as being anticipated by 5,545,093 to Constestabile et al. Examiner points out that Constestabile et al discloses the second housing 14 equivalent to the case of the claimed assembly, the first housing 12 equivalent to the cover of the claimed assembly, and the cap 82 equivalent to the rubbing plate of the claimed assembly.

It is noted that as disclosed in Fig. 2 of the present invention, the case is smaller than the cover so that the case is movably received in the cover as described in the words in claim 1 of the present application. On the contrary, in the disclosure by Constestabile et al., the second housing 14 is not movably received in the first housing 12 as disclosed in Figs. 1 and 2, the first and second housings are threadedly connected with each other so that as shown in Fig. 1, the first and second housing have the same outer diameter. Examiner deems the threaded connection of the first and second housings meets the limitation of that the case is movably received in the cover of the claimed assembly, however, it is clear that the threaded connection simply connects two respective ends together and the connection is completely different from the limitation “movably received” as listed in claim 1. In other words, the second housing is not designed to be movably received in the first housing at all. Besides, when operating the claimed assembly, the case is simply pushed to merge into the cover and this operation action is so simple and convenience for the users. For the disclosure by

Constestabile et al., a rotational action has to be made to have a relative movement of the first and second housings, in detail, the user has to hold of the first and second housings, and rotate the other to complete the rotational action. This is much more complex than the operation action for the claimed assembly.

Furthermore, in claim 1, the top surface of chalk piece is limited to contact the open top of the cover. On the contrary, the chalk block positioned by the arms 108 cannot touch the open top of the cover. As disclosed in Fig. 3, the first housing 12 includes an inner body 70 on its top so that the chalk block cannot reach the open top of the first housing. Examiner said that in Figs. 1 and 6 of the disclosure by Constestabile et al. show that the top surface of the chalk block contact the open top of the first housing, nevertheless, the two drawings do not disclose what the Examiner describes. Please refer to the male threads 28 in Fig. 2 of the disclosure by Constestabile et al., the lip 114 of the arm 28 is located on a top edge of the series of male threads 28, this means that only a short distance can be moved between the first and second housings, and the short distance obviously cannot move the chalk block to reach the open top of the first housing.

Regarding to claim 3, Examiner points out that “the outside (the base of the case) of the case 14 include a recess (best seen in figures 4 and 5) defined therein and a groove (the inner diameter of disc 62) is defined in a surface of the recess, a periphery of the rubbing plate (82) engaged with the groove.” However, as shown in Fig. 2 of the disclosure by Constestabile et al., the rubbing plate 82 has the same diameter of the second housing 14, how can the rubbing plate 82 to be engaged with the so called groove in the surface of the recess ?

Figure 5 shows the so called recess is used to receive the press fit disc 73, not the so called rubbing plate 82.

As for the rejection of claim 4, it is noted that because the first and second housings are threadedly connected with each other and have the same diameter so that the second housing cannot move into the first housing, therefore, ratio of the height of the second housing and the first housing does not make any sense. In the claimed assembly, because the base is movably received in the cover, so that when the height of the case is only $\frac{2}{3}$ of the height of the cover, the case can be pushed into the cover to make sure that the top surface of the chalk piece contacts the open top of the cover.

Accordingly, the disclosure by Constestabile et al. cannot anticipate the claimed assembly so that the claim 1 should be allowable. Claims 2 to 4 are dependent on claim 1 should also be allowable.

In view of the foregoing amendments and remarks, Applicant submits that the application is now in a condition for allowance and such action is respectfully requested.

Respectfully submitted,

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